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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,071	01/23/2004	Toros Kejejian		8003

7590 04/15/2005  
Stephen E. Feldman, P.C.  
12 East 41st Street  
New York, NY 10017

EXAMINER

REESE, DAVID C

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/764,071

Applicant(s)

KEJEJIAN, TOROS

Examiner

David C. Reese

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### *Status of Claims*

[1] Claims 1-20 are pending.

### *Information Disclosure Statement*

[2] The information disclosure statement filed 1/23/2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### *Drawings*

[3] The drawings are also objected to under 37 CFR 1.83(a) because they fail to show 13 in Fig. 5 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be

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removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

[4] The disclosure is objected to because of the following informalities:

minor grammatical errors, mainly focusing on words left out of the specification. For example, on page 8, line 24, "from angles of about \_\_\_\_..." This is also found on page 9, line 26; and page 10, lines 5 and 8.

Appropriate correction is required.

### *Claim Objections*

[5] Claims 2, 6-11, 13-17, and 20 are objected to because of the following informalities:

Each of the above listed claims has at least one example of terminology that lacks antecedent basis in its respective claim or dependent claims thereof. For example, in Claim 2, "said corner facets" lacks antecedent basis in both the instant claim as well as dependent Claim 1. In Claim 6, "said corner facets." In Claim 7, "said four said upper girdle facets," and "said a

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plane.” In Claim 8, “said four upper girdle facets.” In Claim 9, “said girdle plane.” The following continues throughout each of the further listed claims above. Examiner asks the help of the applicant to ensure the accuracy of such claims and to fix each listed claim accordingly.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

[6] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[7] Claims 1-17, 19-20 are rejected under 35 U.S.C. 102(b) as clearly anticipated by Kejejian, US- 6,449,985, because the invention was patented or described in a printed publication in this or a foreign country, or in public use or on sale in this country more than one (1) year prior to the application for patent in the United States.

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As for Claim 1, Kejejian teaches of a mixed cut gemstone having an eight sided girdle, comprising:

- a) a pavilion (40, 41), wherein
  - said pavilion is step cut (36, 37);
  - said pavilion further comprising of step cuts (36, 37), arranged at a slight angle to each other (the angles between 36, 37), wherein said pavilion (40,41) further comprises
    - a multitude of steps (36, 37), where said steps are substantially equally spaced (36, 37),
    - said pavilion (40, 41) further comprises of rib lines (32, 33), wherein said rib lines subdivide said pavilion into equal parts (36, 37) and said rib lines converge at a culet (30, 31);

Re: Claim 2, (Claim 1 of Kejejian).

Re: Claim 3, (Claim 2 of Kejejian).

Re: Claim 4, (Claim 1 of Kejejian).

Re: Claim 5, (Claim 3 of Kejejian).

Re: Claim 6, (Claim 4 of Kejejian).

Re: Claim 7, (Claim 5 of Kejejian).

Re: Claim 8, (Claim 6 of Kejejian).

Re: Claim 9, (Claim 7 of Kejejian).

Re: Claim 10, (Claim 8 of Kejejian).

Re: Claim 11, (Claim 9 of Kejejian).

Re: Claim 12, (Claim 10 of Kejejian).

Re: Claim 13, (Claim 11 of Kejejian).

Re: Claim 14, (Claim 12 of Kejejian).

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Re: Claim 15, (Claim 17 of Kejejian).

Re: Claim 16, (Claim 17 of Kejejian).

Re: Claim 17, (Claim 7, 17 of Kejejian).

Re: Claim 19, (16 compared with 20; 13 with 51 of Kejejian).

Re: Claim 20, (Claims 12-14 of Kejejian).

*Claim Rejections - 35 USC § 103*

[8] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[9] Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kejejian, US- 6,449,985 in view of Bruhl, US-138, 314.

Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

Kejejian, US- 6,449,985, teaches of a mixed cut gemstone including that from the above claims, including four rib lines that divide the pavilion into four sides.

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However, Kejejian, US- 6,449,985 fails to disclose expressly of the possibility of eight rib lines that would divide the pavilion into eight sides.

Bruhl, US-138, 314 teaches of eight rib lines that divide the pavilion into eight sides. Other prior art including: Steel 59,299; Lax et al., D501,422; Abaev, D501,421; and Namdar, D499,981; teach of the same.

At the time of invention, it would have been obvious to one of ordinary skill in the art to modify the mixed cut gemstone as taught by Kejejian, 6,449,985, to incorporate a pavilion embodiment with the above features (eight rib lines) as taught by Steel, Bruhl, Lax et al., Abaev, and Namdar, in order to create another embodiment of gemstone with a alternate pavilion structure and possible differing resulting properties of such a gemstone (brilliancy, dispersion and scintillation).

In addition, regardless of the prior art, it would have been an obvious matter of design choice to go from four to eight rib lines, as applicant has not disclosed specifically that going from four to eight rib lines solves any stated problem of the prior art or is for any particular purpose other than the possible alteration of characteristics of the gemstone including brilliancy, dispersion and scintillation, all of which are direct representations of design choice for both the creator and user.

### *Conclusion*

[10] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited further to show the state of the art with respect to this particular type of gemstone; as well as their extreme relevance to the current application as many




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read extensively onto the claimed invention: Kanner, D465,431; Grossbard, 4,020,649; Grossbard, 4,555,916; Lax, D499,982; Kejejian, D490,742; Heller, D62,385; Heller, D53,318; Heller, D47,722; Kejejian, D502,666; Kejejian, D446,152; Kejejian, D445,718.

[11] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is ~~202-373-4095~~. Due to a future move, however, this number will change after the 31st of March. After this date, the examiner can be reached at (571) 272- 7082. The examiner can normally be reached on 7:30 am - 5:00 pm M-Th, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ROBERT J. SANDY  
PRIMARY EXAMINER

Sincerely,  
David Reese  
Examiner  
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